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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,280	11/14/2001	Fredrick Burnet	BOB1338-048B	7667
8698	7590	09/19/2005	EXAMINER	
STANDLEY LAW GROUP LLP 495 METRO PLACE SOUTH SUITE 210 DUBLIN, OH 43017			PANOS, JEFFREY C	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,280

Applicant(s)

BURNET ET AL.

Examiner

Jeffrey C. Panos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 14 February 2005 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8-14, 17, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Acres et al. (US Patent No. 5,741,183). Acres et al. disclose an apparatus for storing and collecting game data (Column 6, lines 64-65). The apparatus includes a game processing system (FIG. 1) that includes a main controller (FIG. 1, reference 18) and a plurality of unit controllers (FIG. 1, references 12, 14, 16, etc.) that can be used together to play a multiple player game (Column 3, lines 12-15). For example, multiple gaming machines (unit controllers) can be used together in a multiple player game of a progressive jackpot competition. The system further comprises a data

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output system (FIG 2, reference 40) in communication with the game processing system (Column 9, lines 38-40) that keeps track of the coins in, coins out, coins to drop, games played, jackpot occurrence, and other related gaming functions (Column 8, lines 47-50).

The data output system has a processor (FIG 2, reference 46) in the form of a micro controller (Column 8, lines 62-63) that serves as an output processing system for the output data to be sent to the game processing system, a plurality of I/O pods (FIG 2, reference 220, 224, 226, 225), a memory (FIG 2, reference 48) and a communications port (FIG 2, reference 201). The communications port connects the data output system to the data collection unit (FIG 1) in order to send accounting data. The system further comprises a data collection unit in the form of a file server (FIG 1, reference 32) having a data collection device which is realized through communication with the data output system (Column 32, lines 23-28) to communicate accounting data (Column 7, lines 1), such as the data disclosed above, to and from data output system (Column 32, lines 30-40). The data collection unit can be in wireless communication (Column 37, lines 51-54) with the data output system via the communication pod (FIG 2, reference 201).

Inherently, the game processing system has a clock, as the system is essentially a computer and computers are notoriously well known to use clocks as the clock signal, it is inherent to their processing.

Though Acres discloses a sufficient automatic entry system, Acres still recognizes the need for part of the data collection and data entry to be done manually. Acres discloses a number of terminal connected to the system that can be used to send a floor person to the cashiers booth to state the gaming device needs a 511 (Column 7,

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lines 58-67). The attendant then manually enters the number of the device into the fill terminal and the terminal can then look up the accounting record associated with the gaming device to determine the correct fill amount (Column 7, lines 58-67; Column 8, lines 1-2). The system also allows for hand paid jackpots (Column 8, lines 12-13). Both represent manual transaction that would require a manual entry into the system in order to keep the accounting data accurate based on the manual transaction. The data collection unit would thus be manually actuated with the entry of the data associated with these manual transactions as it is understood that this would be required to maintain the integrity of the accounting data's accuracy. A transaction regarding monetary function cannot occur without proper recording, thus these manual functions would result in manual entries of data. The system also allows for a dispatch station that allows an employee to verify certain accounting events in order to maintain security. Therefore, though Acres has recognized the advantage of automating some accounting features, the need for manual entries is still recognized and disclosed in the system, thus the data collection unit can be actuated manually for the entry of at least a portion of data situations.

In regards to the method claims 18 and 19, Acres et al. also disclose a method of operating an accounting system for game data (Column 1, lines 10-12). The method includes operating a game having a game processing system (Column 2, lines 50-55). The accounting data is stored in the game processing system in the form of messages (Column 32, lines 38-40). A connection, embodied as wireless (Column 37, lines 52) is established between the game and a data collection unit (FIG 1) and the accounting

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data is sent to and stored on the data collection unit (Column 7, lines 43-46). The data can then be processed on the data collection unit into reports (Column 7, lines 46-49). The data is collected during the operation of the gaming device (Column 8, lines 47-50) thus not interrupting the performance of game play. The method also includes presenting an award of a prize to a player as cash and jackpots can be paid (Column 8, lines 48-49).

Though the system of Acres et al. is directed towards monitoring of a casino, one of ordinary skill in the art considers casinos, arcades, and any amusement area to be synonymous within the art. In the instant case, each contain devices created for the purpose of user amusement where the user interacts with the device in order to obtain a payout of a prize or a cash amount.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6, 7, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres et al. (US Patent No. 5,741,183).

What Acres et al. disclose has been discussed above and is incorporated herein.

Acres et al. disclose that the communication within the network of the system can be a wireless or a high-speed network embodiment. Acres et al. do not disclose the exact method to which the communication port implements the wireless data transmission.

The noted means of communication claimed are all notoriously well known in the art as art related equivalents of ways to perform a data transmission over a network and thus their use would have been obvious to the system of Acres et al. that discloses such a high-speed or wireless network.

Response to Arguments

Applicant's arguments filed 14 February 2005 have been fully considered ~~but~~^{by} they are not persuasive.

In response to applicant's argument that having a "competitive multiple player game" is different from what is disclosed in Acres, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. A "competitive multiple player game" does not result in a structural difference between the prior art, Acres, and the claimed invention. Stating that

something is competitive, non-competitive, etc. does not distinguish one game is different from another.

Regarding the Applicant's arguments that Acres is directed towards players competing against the machine odds rather than competing against one another, and that the Applicant's game being a "competitive multiple player game" makes it distinctly different, the Examiner respectfully disagrees with. For example, Acres teaches casino games on a network where the users will compete to win a jackpot. If Player 1 of a game wins a jackpot or a prize amount, another player (Player 2) will be inclined to compete and win some sort of prize as well, in turn, creating a competition. This is a "competitive multiple player game" because a competition is the act of competing, as for profit or a prize. Stating that the player may or may not get the jackpot does not distinguish that it is not a competition. The possibility to win inclines the player to compete for a chance and to do better than the other player.

Applicant's arguments filed 14 February 2005, with respect to the new matter rejections, have been fully considered and are persuasive. The rejections of Claims 1-20 and Figure 4 have been withdrawn.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 4,652,998: Arcade gaming system with accounting features that keeps track of the data in the system.

This is a continuation of applicant's earlier Application No. 09/992,280. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

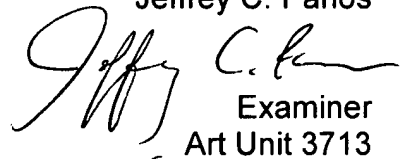
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Panos whose telephone number is (571) 272-6136. The examiner can normally be reached on M-F 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jeffrey C. Panos



Examiner
Art Unit 3713



XUAN M. THAI
SUPERVISORY PATENT EXAMINER

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